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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/800,562	03/15/2004	Leif Wilhelmsen	ZNA-PT003	9793

3624 7590 11/03/2005

VOLPE AND KOENIG, P.C.  
UNITED PLAZA, SUITE 1600  
30 SOUTH 17TH STREET  
PHILADELPHIA, PA 19103

EXAMINER

RAMIREZ, RAMON O

ART UNIT PAPER NUMBER

3632

DATE MAILED: 11/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/800,562	WILHELMSSEN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	RAMON O. RAMIREZ	3632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 September 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Detailed Action***

This is the third Office Action corresponding to communication filed Sep 21, 2005. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn. The application contains 10 claims, claim 11 has been cancelled. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

***Claim Rejections - 35 USC § 102***

Claims 1, 2 and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Korcz et al. (Pat No 6,332,597).

The patent to Korcz et al. shows an adjustable bracket installed between two supporting surfaces (22), comprising a universal bracket defined by two elongate elements (40, 44) having substantially the same profile, made of a sheet material in such manner that each of said elements has a relatively broad central part, which is defined by longitudinally flanged edge portions (see Fig. 14), and wherein at the opposite free ends of said respective elements there is provided an end piece (60), the said two elements being dimensioned and adapted so that they fit into each other and can be displaced in the longitudinal direction, thus providing a telescopically adjustable

"beam" and can readily be adapted to the width between supporting surfaces and can easily be fastened thereto by fasteners (64) provided in the said end pieces, capable of supporting plasterboard for receiving articles thereon.

***Claim Rejections - 35 USC § 103***

Claim 3 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Korcz et al. in view of Harris et al. (Pat No 4,050,603).

The device shown by Korcz et al. shows its end portions bend downwardly. The patent to Harris et al. shows another adjustable bracket having end portions bend upwardly and with more than one opening. It would have been obvious to one skilled in the art at the time the invention was made to have provided the device shown by Korcz et al. with upwardly bent end portions as shown by Harris et al. as an alternative way of securing the bracket, and with more than one opening to provide additional securing means.

Claims 6-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Korcz et al.

The dimensions and material from which the device is being made are considered to be obvious matter of engineering choice to those skilled in the art having no patentable significance.

***Response to Arguments***

Applicant's arguments filed regarding the rejection of the claims over the prior art have been fully considered but they are not persuasive. Applicant argues that Korcz et al. do not show their device attached to plasterboard to support items thereon.

However, as per Applicant arguments and declaration, the latter is considered an obvious matter of engineering to those skilled in the art, and consequently is not considered patentable subject matter. In other words, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

Applicant's arguments are not completely clear, since they make reference to a non-existent figure 6 and to reference numerals not shown in the disclosure (screws 10 and 11).

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the


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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RAMON O. RAMIREZ whose telephone number is (571) 272-6821. The examiner can normally be reached on MONDAY-FRIDAY, IST FRIDAY OFF.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ROBERT OLSZEWSKI can be reached on (571) 272-6788. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
RAMON O. RAMIREZ  
Primary Examiner  
Art Unit 3632

ROR  
Oct. 24, 05